

UNITED STATES DISTRICT COURT

for the
District of New Mexico



In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

All Funds Contained in WestStar Bank Account
Number 13050325 Held in the Name
EGL Construction Inc.

Case No. **21 MR 1107**

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

All Funds Contained in WestStar Bank Account
Number 13050325 Held in the Name

located in the _____ District of _____, there is now concealed (identify the person or describe the property to be seized):

See attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☐ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section
18 USC Section 641

Offense Description
Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency

The application is based on these facts:

See attached probable cause

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

Lucas C. Coulter, Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
telephone _____ (specify reliable electronic means).

Date: August 2, 2021

City and state: Albuquerque, NM

Judge's signature

Jerry H. Ritter U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF APPLICATION FOR A SEIZURE WARRANT

I, Lucas Coulter, being duly sworn, depose and say as follows:

1. I am a Special Agent with the United States Army, Criminal Investigation Command (CID), Major Procurement Fraud Unit (MPFU), currently assigned to the El Paso Office of the San Antonio Division, and have been so employed since 2019. I am authorized to investigate violations of Federal Criminal Law and possess the authority to execute warrants issued under the authority of the United States.
2. This affidavit is in support of an application by the United States of America for a seizure warrant for all funds contained in Weststar Bank, Account Number 13050325, held in the name EGL Construction Inc. The information set forth in this affidavit is based upon my own personal knowledge or has been communicated to me by other sworn law enforcement officers or from other reliable sources.
3. Because this affidavit is submitted for the limited purpose of securing a seizure warrant, I have not included all known facts concerning this matter. I have set forth only the facts that I believe necessary to establish probable cause to support a warrant to seize funds that constitute or are derived from proceeds of theft of government property in violation of Title 18 U.S.C. § 641.

RELEVANT STATUTES

4. This matter arises from alleged violations of 18 U.S.C. § 641, which prohibits theft of government property. Theft of government property is defined by that statute as one that embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or
5. Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted.
6. Subsection (d) of 18 U.S.C. § 1955 provides that “any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States.” The subsection goes on to provide that “all provisions of law related to ...

seizures ... and judicial forfeiture procedures ... shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of ... this section....”

7. Funds that constitute, or are derived from, proceeds of theft of government property obtained in violation of 18 U.S.C. § 1955 are also subject to civil forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(C), 1956(c)(7)(A) and 1961(1), which further renders them subject to seizure under 18 U.S.C. § 981(b)(1).

FACTS SUPPORTING PROBABLE CAUSE

8. On or about March 23, 2021 the United States Army Criminal Investigation Command (CID), Major Procurement Fraud Unit (MPFU) received information from a source that an United States Army civilian employee illegally removed metals owned by the Department of the Army in order to recycle them for a profit. This affidavit provides probable cause to believe that MARIO F. ESCOBEDO (ESCOBEDO) and RANDOLPH M. BRADY (BRADY), and others known and unknown to the affiant at this time, conspired to commit wrongful appropriation of government property, since at least on or before August 2020. The investigation is predicated on information from a source that Department of the Army (DA) civilian employee, BRADY scrapped metal from a facility located on White Sands Missile Range (WSMR), New Mexico (NM) that is approximately worth \$2 million dollars USD.
9. Investigation determined through interviews, review of Defense Information Systems Agency (DISA) email accounts, bank records and intelligence checks that Army Test and Evaluation Command Director BRADY utilized the services of ESCOBEDO and his company, EGL Construction, Inc., (EGL) to remove four tanks containing nickel ball bearings from the Large Blast Thermal Simulator (LBTS) facility located on WSMR, NM. Each of the four tanks contained approximately 58,000 pounds of 3/8 inch nickel ball-bearings. ESCOBEDO hired Mountain States Crane, Albuquerque (ABQ), NM and Maddy Jay Freight Service, Horizon City, TX to assist with the removal and transportation of the tanks from the LBTS facility to Acme Iron and Metals, ABQ, NM in order to recycle the metal for a profit. The tanks were removed and transported on the 19th and 20th of March 2021. To date; no contracts have been awarded and/or solicited for the removal of the nickel.

10. A search of Texas and New Mexico Secretary of State Records determined ESCOBEDO is the President, Director, Registered Agent, and Incorporator of EGL.
11. A review of DISA emails belonging to BRADY from August 2020 to June 2021 revealed emails traffic between ESCOBEDO, Southwest Range Service (SRS) employees, and other DA civilians. The substance of the emails pertained to the removal of the tanks and preparation of the removal.
12. A review of financial documents revealed a checking account at Weststar Bank, Account Number 13050325, held in the name EGL Construction Inc. owned by Mario ESCOBEDO and wife, Elizabeth ESCOBEDO. Mario and Elizabeth ESCOBEDO are the only authorized signers on the Weststar Bank account ending in 0325.
13. On March 31, 2021, EGL Construction Inc. received a check from First National Bank in the amount of; \$354,299.00 USD from Acme Iron and Metals. According to the source, Acme Iron and Metals scraped the nickel. On April 5, 2021, ESCOBEDO deposited the funds into the Weststar Bank Account13050325 with a memo note: Metal Brady WSMR.
14. On March 31, 2021, EGL Construction Inc. Weststar Bank Account13050325 received a wire transfer from Acme Iron and Metals for \$250,000 USD.
15. On April 01, 2021, EGL Construction Inc. Weststar Bank Account 13050325 received a wire transfer from Acme Iron and Metals for \$250,000 USD
16. On April 02, 2021, EGL Construction Inc. Weststar Bank Account 13050325 received a wire transfer from Acme Iron and Metals for \$150,000 USD
17. April 01, 2021, EGL Construction Inc. Weststar Bank Account 13050325 received a wire transfer from Acme Iron and Metals for \$250,000 USD
18. April 15, 2021, EGL Construction Inc. Weststar Bank Account 13050325 received a wire transfer from Acme Iron and Metals for \$49,334.00 USD
19. June 16, 2021, EGL Construction Inc. Weststar Bank Account 13050325 received a wire transfer from Acme Iron and Metals for \$250,000 USD
20. The affiant received a subpoena return on behalf of Weststar Bank that reflects five (5) wire transfers made on behalf of Acme Iron and Metals, Inc. to EGL Construction Weststar Bank Account 13050325 for \$849,334.00. The deposits encompass the date period of March 31, 2021 – June 16, 2021.

21. On July 29, 2021, ESCOBEDO the owner of EGL Construction Inc. interviewed and confirmed the following:

- Removal of the four tanks containing nickel ball bearings from the Large Blast Thermal Simulator (LBTS) facility located on WSMR.
- Wire transfers from Acme Iron and Metals in the amount of \$1,000,000.00
- BRADY directed removal.
- WestStar Bank account 13050325 was opened for the sole purpose to hold funds from the sale of the metal.

22. As of June 30, 2021, records show the balance of Weststar Bank Account 13050325 is \$1,119,578.31 USD>

CONCLUSION

23. Based on the facts set forth herein, your Affiant believes that there is probable cause to seize the account identified as Weststar Bank Account 13050325 held in the name of EGL Construction Inc. because it contains assets in violation of 18 U.S.C. § 641. Your Affiant also has probable cause to believe that the account funds contains funds that constituted or were derived from proceeds removal of stolen government property in violation of Title 18 U.S.C. § 641. Your Affiant further has probable cause to believe that the account is subject to seizure under Title 18 U.S.C. §§ 1955(d) and 981(b)(1), and to civil forfeiture under Title 18 U.S.C. §§ 1955(d), 981(a)(1)(C), 1956(c)(7)(A) and 1961(1).

24. Based on the fact that the account contains proceeds which are subject to rapid dissipation, it is hereby requested that Special Agents of the CID/FBI be authorized to effect the seizure of the account, and that the Court direct Weststar Bank to freeze the contents of the account in place and to refuse the withdrawal of any amount from the account by anyone other than the CID/FBI, and, while any contents of the account are frozen in place, to accrue deposits, interest and dividends, until the contents of the account be fully liquidated and no contents remain.

I swear this information is true to the best of my knowledge and belief.

Respectfully submitted,



Lucas Coulter
Special Agent
U.S. Army CID MPFU

Subscribed and sworn to before me
this 2 day of August, 2021



UNITED STATES MAGISTRATE JUDGE

Reviewed and approved by Supervisory
Assistant U.S. Attorney Jonathon Gerson

Attachment B

WestStar Bank is directed to do the following regarding WestStar Bank Account Number 13050325 held in the name of EGL Construction Inc.:

- a. Freeze the contents of the account in the event the bank is unable to provide the funds immediately to the FBI and thereby restrict the removal and/or dissipation of the funds by the account holder(s).